

## Message Text

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ACTION EA-14

INFO OCT-01 ISO-00 PM-07 NSC-07 SP-03 SS-20 RSC-01 L-03

CIAE-00 INR-11 NSAE-00 SSO-00 NSCE-00 INRE-00 DRC-01

PA-04 PRS-01 USIA-15 /088 W

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O 290850Z JUL 74

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC NIACT IMMEDIATE 3587

SECDEF WASHDC

CSAF WASHDC

CINCPAC HONOLULU HI

CINCPACAF HI

COMUSJAPAN FUCHU

AMCONSUL NAHA IMMEDIATE

C O N F I D E N T I A L TOKYO 9859

CINCPAC FOR POLAD

E.O. 11652: GDS

TAGS: PFOR JA

SUBJ: FCK CASES, SGTS LOCKE AND JOHNSON

REF: STATE 163964

1. EMBASSY INFORMED BY COMUSJAPAN AT APPROXIMATELY 0400 HOURS JULY 29 THAT CINCPACAF HAD APPROVED APPLICATION FOR REDRESS OF DECISION BY COMMANDER FIFTH AIR FORCE NOT TO ISSUE DUTY CERTIFICATES SUBMITTED ON BEHALF OF LOCKE AND JOHNSON AND THAT CINCPACAF HAD DIRECTED DUTY CERTIFICATES BE ISSUED SOONEST. EMBASSY ALERTED FOREIGN OFFICE TO THIS DEVELOPMENT AT ABOUT 0730 HOURS JULY 29, AT SAME TIME INFORMING FONOFF PER REFTEL THAT WE UNABLE COMPLY WITH FOREIGN MINISTER'S REQUEST FOR RECONSIDERATION DECISION TO ISSUE CERTIFICATES. IN ACCORDANCE WITH CINCPACAF INSTRUCTION, BY LOCAL PROCURATOR INFORMED OF DECISION TO ISSUE CERTIFICATES AT APPROXIMATELY 0900  
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HOURS AND ISSUANCE MADE AT ABOUT 0930 HOURS, JULY 29.

2. THIS SEQUENCE OF EVENTS PRECLUDED EMBASSY FROM CONSULTING IN ADVANCE OF CERTIFICATE ISSUANCE WITH FOREIGN OFFICE ON PRESS HANDLING AND POSSIBILITIES FOR MOVING ISSUE PROMPTLY TO JOINT COMMITTEE AS INSTRUCTED REFTEL PARA 2. EMBASSY HAD PASSED V WH MEMBERS COMUSJAPAN AND FIFTH AIR FORCE STATIONS MEETING ON JULY 28 TO ISSUE CERTIFICATES AT ABOUT NOON JULY 29 OR, POSSIBLE, LATER THAT AFTERNOON TO ALLOW TIME FOR SUCH CONSULTATIONS AND FOR GOJ TO DEVELOP ITS POSITION.

3. DCM AND POLITICAL COUNSELOR MET WITH FONOFF AMERICAN AFFAIRS DIRGEN YAMAZAKI AND SECURITY DIVISION HEAD YAMASHITA AT ABOUT 1000 HOURS JULY 29 TO INITIATE THESE CONSULTATIONS. AFTER PROVIDING GIST OF REFTEL, DCM PROVIDED YAMAZAKI WITH INFORMAL PAPER SETTING FORTH ARGUMENTATION CONTAINED PARA 3 CSAF/JA MSG 262122Z JULY 74 AS WELL AS COPY OF PROPOSED STATEMENT CONTAINED CSAF/CN MESSAGE 262231Z JULY 74 AND SUGGESTED Q AND A PREPARED BY COMUSJAPAN AND EMBASSY (BEING SENT SEPTEL). DCM URGED THAT PROCEDURES BE SET IN MOTION TO CONVENE JOINT COMMITTEE SOONEST SO THAT GOJ VIEWS COULD BE GIVEN URGENT AND FULL CONSIDERATION. YAMAZAKI AND YAMASHITA STATED CATEGORICALLY THAT GOJ WOULD TAKE MATTER TO JOINT COMMITTEE BUT IN VIEW OF TIME REQUIRED TO OBTAIN RESULTS OF JAPANESE POLICE INVESTIGATION INTO FACTS AND DEVELOP GOJ POSITION, YAMASHITA THOUGHT THAT GOJ WOULD NOT BE PREPARED FOR JOINT COMMITTEE MEETING BEFORE JULY 30 AT EARLIEST. YAMASHITA REQUESTED THAT US AUTHORITIES PROVIDE SUMMARY OF USAF INVESTIGATION SOONEST AND SPECIFICALLY ASKED FOR INFORMATION BEARING ON INSTRUCTIONS UNDER WHICH LOCKE AND JOHNSON WERE PERFORMING THEIR DUTIES AND ON USE OF FLARE GUN. WE ARE LOOKING INTO POSSIBILITY OF COMPLYING WITH THIS REQUEST.

4. YAMASHITA THOUGHT IT LIKELY THAT GOJ WOULD STRONGLY CONTEST US DECISION TO RETAIN PRIMARY JURISDICTION ON BASIS FACTS OF CASE AND LEGAL INTERPRETATION OF WHAT CONSTITUTES CONFIDENTIAL

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ACTIONS IN LINE OF OFFICIAL DUTY. ALTHOUGH HE DID NOT RULE OUT POSSIBILITY THAT GOJ MIGHT REQUEST WAIVER UNDER ARTICLE XVII 3C, HE PERSONALLY THOUGHT THAT GOJ PROBABLY WOULD BE RELUCTANT IN FIRST INSTANCE TO CONCEDE PRIMARY JURISDICTION GIVEN CIRCUMSTANCES THIS CASE AND PREVIOUS SIMILAR CASES.

5. SUBSEQUENTLY, AFTER CONSULTING WITH VICE FOREIGN MINISTER AND FOREIGN MINISTER YAMAZAKI TELEPHONED DCM

TO STATE THAT HE WOULD PROBABLY SUBMIT FORMAL REQUEST DURING AFTERNOON JULY 29 TO CONVENE JOINT COMMITTEE ON URGENT BASIS JULY 30. HE THOUGHT IT POSSIBLE, HOWEVER, THAT JAPANESE SIDE WOULD MAKE ONLY GENERAL PRESENTATION OF ITS POSITION AT THAT TIME AND REQUEST THAT MATTER BE REFERRED TO SUBCOMMITTEE ON CRIMINAL JURISDICTION FOR DETAILED DISCUSSION. DCM ACKNOWLEDGED THAT JAPANESE SIDE WILL REQUIRE TIME TO PREPARE ITS POSITION BUT URGED ADVISABILITY THAT GOJ PLACE ITS CASE IN FULL BEFORE JOINT COMMITTEE SOONEST. (FONOFF HAS NOW REQUESTED JOINT COMMITTEE MEETING AT 11:00 TUESDAY, JULY 30).

5. COMMENT: DURING DISCUSSION IT APPARENT THAT YAMAZAKI AND YAMASHITA APPREHENSIVE OVER PROBABLE POLITICAL REPERCUSSIONS, BOTH FOR TANAKA GOVERNMENT AND US-JAPAN SECURITY RELATIONSHIP, IF IN FINAL EVENT US RETAINS PRIMARY JURISDICTION IN THIS CASE. THIS APPREHENSION PROBABLY SHARED BY HIGHER LEVELS OF GOJ. MOREOVER, DESPITE ASSURANCES GIVEN THAT WE WILL GIVE GOJ POSITION URGENT AND OPEN-MINDED CONSIDERATION, GOJ PROBABLY CONCERNED, AS INDICATED BY YAMASHITA IN CONVERSATION JULY 27, THAT USG ACTUALLY LOCKED INTO PRESENT POSITION AND CANNOT WITHDRAW CERTIFICATES. EMBASSY OF COURSE NOT IN POSITION TO ASSESS WHAT DEGREE OF FLEXIBILITY WE HAVE ON THIS ISSUE. WE DO BELIEVE IT REASONABLE TO ASSUME, HOWEVER, THAT IF WE GET INTO PROTRACTED DEBATE WITH GOJ OVER QUESTION OF PRIMARY JURISDICTION, POLITICAL PRESSURES LIKELY TO BUILD QUICKLY WHICH WILL LIMIT MANEUVERABILITY OF BOTH GOVERNMENTS TO REACH RESOLUTION OF THIS CASE.  
HODGSON

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## Message Attributes

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